IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE NINETEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI

&
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 1527 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 11/08/2004 in WP NO: 14169 OF 2004 on the file of the High Court.)

Between:

1 APSRTC rep.by its Vice-Chairman cum Managing Director, RTC

X Roads, Mushirabad, HYderabad
2 The Regional Manager, APSRTC, Kurnool, Kurnool District
3 The Depot Manager, APSRTC, Kurnool-II Depot, Kurnool

District

APPELLANTS

AND

Sri P.Hanumantha Reddi, S/o P.Sesha Reddi,
R/o 45-142/26, Machani Samappa Colony, Kurnool, Kurnool District

RESPONDENT

Counsel for the Appellants: MR.P.VINAYAKA SWAMY

Counsel for the Respondent : MR.K.RATHANGA PANI REDDY

The Court made the following:

JUDGMENT : (Per Honourable Sri Justice S.Ananda Reddy)

This writ appeal is filed by the Corporation aggrieved by the order of the learned single Judge, under which a direction was given to the Corporation not to withhold hire charges payable to the writ petitioner. But however, the same shall be subject to the out come of the result of the appeal filed by the Corporation against the award passed by the Assistant Commissioner of Labour.

The respondent is the owner of the vehicle, which was given on hire to the Corporation. It appears that the said vehicle was met with an accident in which the driver of the vehicle died and legal heirs made a claim for compensation and an award was passed by the Commissioner under the Workmen's Compensation Act and in the said award, liability was fixed against the Corporation. Aggrieved by the said award, an appeal was filed by the corporation and the same is pending before this Court. Though no liability has been fastened against the owner of the vehicle-the writ petitioner, the Corporation, however, proposed to withhold hire charges payable to the owner of the vehicle. Therefore, writ petitioner- respondent herein filed the Writ Petition and sought for a direction to the corporation not to withhold the hire charges payable to the writ petitioner. The said writ petition was allowed directing the Corporation not to withhold the hire charges but however, the liability would be subject to the result of the appeal filed by the Corporation.

At the time of hearing, the learned Counsel for the Corporation however sought to rely upon the agreement that was entered into between the writ petitioner and the Corporation and relying upon clause 5(iv) of the Agreement, sought to contend that the owner of the vehicle shall be liable for the claims due to the accident and the compensation payable under the Motor Vehicles Act and Rules, but not the Corporation.

The learned Counsel further sought to contend that this agreement is the subject matter of the proceedings before Workmen's Compensation Act which is also the subject matter of the appeal filed by the Corporation which is pending before this Court. In the light of the pendency of the appeal filed by the Corporation, this issue cannot be decided independently in the present proceedings.

Accordingly, the writ appeal is dismissed. However, the payment of hire charges to the writ petitioner as already observed by the learned single Judge, shall be subject to the out come of the appeal filed by the Corporation.

Justice T.Meena Kumari

Date 19-01-2005

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Justice S.Ananda Reddy

Dvs/Gurc

Copies to:

1 The Vice-Chairman cum Managing Director, APSRTC, RTC

X Roads, Mushirabad, Hyderabad
2 The Regional Manager, APSRTC, Kurnool, Kurnool District
3 The Depot Manager, APSRTC, Kurnool-II Depot, Kurnool

District

4 Two CD copies.

THE HONOURABLE SMT. JUSTICE T.MEENA KUMARI

&

THE HONOURABLE SRI JUSTICE S.ANANDA REDDY

W.A.No. 1527 of 2004

(Judgment delivered by the Honourable

Smt. Justice S.Ananda Reddy)

19th January, 2005